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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/812,222	03/29/2004	Gary W. James	METZ 2 00010	3032
27885	7590	10/17/2006	EXAMINER	
FAY, SHARPE, FAGAN, MINNICH & MCKEE, LLP 1100 SUPERIOR AVENUE, SEVENTH FLOOR CLEVELAND, OH 44114			WILKENS, JANET MARIE	
			ART UNIT	PAPER NUMBER
			3637	

DATE MAILED: 10/17/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/812,222

Applicant(s)

JAMES ET AL.

Examiner

Janet M. Wilkens

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 31 July 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☒ Other: Attachment A.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 10 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. For claim 10, it is unclear whether or not the associated wall is to be claimed in combination with the adapter. In claim 1, the associated wall is located in an intended use/"for" statement and therefore not positively claimed. However, in claim 10, the associated wall is positively claimed, i.e. "first wall is depressed toward the associated wall".

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-5 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Vollmer (4,264,013). Vollmer teaches an adapter (Fig. 1) comprising: a first wall (11) having circular openings (17) with depressions, a second wall (12) depending normally from an edge of a first end (which is parallel to the longitudinal axis of the first wall) of the first wall, a third wall (14) extending from the second wall and being parallel to the first wall, a fourth wall (13) depending normally from an edge of a second end (which is parallel to the longitudinal axis of the first wall) of the first wall, and a fifth wall (15)

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extending from the fourth wall and being parallel to the first wall. The third and fifth walls include openings (16). Please note: limitations found in intended use/"for" statements have been given no weight in the claims.

Claims 1-5 are rejected under 35 U.S.C. 102(b) as being anticipated by Fredrickson (4,606,466). Fredrickson teaches an adapter (Fig. 1; see Attachment A) comprising: a first wall (A) having "generally" circular openings (20), a second wall (B) depending normally from a first end (which is parallel to the longitudinal axis of the first wall) of the first wall, a third wall (C) extending from the second wall and being parallel to the first wall, a fourth wall (D) depending normally from a second end (which is parallel to the longitudinal axis of the first wall) of the first wall, and a fifth wall (E) extending from the fourth wall and being parallel to the first wall. The third and fifth walls include openings (F). Please note: limitations found in intended use/"for" statements have been given no weight in the claims.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Vollmer in view of Ferenzi. As stated above, Vollmer teaches the limitations of claims 1-4, including holes in the fifth wall. For claim 6, Vollmer fails to teach notches in the fifth wall.

Ferenzi teaches the use of notches (62) in supporting a structure on a wall. It would have been an obvious consideration to modify the lower openings of the fifth and third walls, by using alternate opening in the walls, i.e. using notches, such as is taught by Ferenzi, instead of holes therein, since these openings are functional equivalents and either would work well in supporting (along with the necessary fasteners) the adapter on a wall. Furthermore, because of the notches, the adapter of Vollmer in view of Ferenzi would be easily positionable on a vertical surface. For example, the adapter could be placed on the surface by aligning the notches with pre-placed fasteners on the surface and inserting them there over. Then the fasteners in the upper openings can be attached thereto to secure the adapter to the surface.

Claims 9 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vollmer. As stated above, Vollmer teaches the limitations of claim 1, including a plastic adapter with walls. For claim 9, Vollmer fails to teach that the adapter is metal. The examiner takes Official notice that metal jewelry holders/adapters are well known in the art. Therefore, it would have been an obvious design consideration to modify the adapter by making it out of an alternate material, i.e. making it out of metal and not plastic as disclosed, depending on the desired need of the person constructing the adapter, e.g. depending on personal preferences, depending on the material readily available, depending on economic considerations, etc.

For claim 11, Vollmer fails to teach that the holes are located equidistant from a top and bottom edge of the first wall. It would have been an obvious design consideration to modify the adapter by moving the holes so that they are more centered

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on the first wall, depending on the desired need of the person constructing the adapter, e.g. depending on personal preferences, depending on the size of the articles to be hung from the adapted, for aesthetic reasons, etc.

Claims 12-15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Vollmer in view of Ferenzi. Vollmer teaches an adapter (Fig. 1) comprising: a first wall (11) having openings (17) with depressions, a second wall (12) depending normally from an edge of a first end (which is parallel to the longitudinal axis of the first wall) of the first wall, a third wall (14) extending from the second wall and being parallel to the first wall, a fourth wall (13) depending normally from an edge of a second end (which is parallel to the longitudinal axis of the first wall) of the first wall, and a fifth wall (15) extending from the fourth wall and being parallel to the first wall. The third and fifth walls include openings (16). For claim 12, Vollmer fails to teach that the adapter is placed on the side wall in a cabinet. Ferenzi teaches a cosmetic cabinet with side walls (Fig. 1). It would have been obvious to add an adapter, such as is taught by Vollmer, on one of the side walls of the cabinet of Ferenzi, to provide an additional jewelry holder in the cabinet.

For claims 14 and 15, Vollmer in view of Ferenzi fails to teach notches in the fifth wall. Ferenzi further teaches the use of notches (62) in supporting a structure on a wall. It would have been an obvious consideration to modify the lower openings of the fifth and third walls, by using alternate opening in the walls, i.e. using notches, such as is taught by Ferenzi, instead of holes therein, since these openings are functional equivalents and either would work well in supporting (along with the necessary

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fasteners) the adapter on a wall. Furthermore, because of the notches, the adapter of Vollmer in view of Ferenzi would be easily positionable on a vertical surface. For example, the adapter could be placed on the surface by aligning the notches with pre-placed fasteners/lances on the surface and inserting them there over. Then the fasteners in the upper openings can be attached thereto to secure the adapter to the surface.

Claims 6-8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fredrickson in view of Ferenzi. As stated above, Fredrickson teaches the limitations of claims 1-4, including holes in the fifth wall. For claim 6, Fredrickson fails to teach notches in the fifth wall. Ferenzi teaches the use of notches (62) in supporting a structure on a wall. It would have been an obvious consideration to add notches in the lower portions of the fifth wall of Fredrickson, such as is taught by Ferenzi, because the notches would allow the adapter to be easily positionable on a vertical surface. For example, the adapter could be placed on the surface by aligning the notches with pre-placed fasteners/lances on the surface and inserting them there over. Then the fasteners in the upper openings can be attached thereto to secure the adapter to the surface.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fredrickson. As stated above, Fredrickson teaches the limitations of claim 1, including a plastic adapter with openings in its first wall. For claim 11, Fredrickson fails to teach that the holes are located equidistant from a top and bottom edge of the first wall. It would have been an obvious design consideration to modify the adapter by moving the

holes so that they are more centered on the first wall, depending on the desired need of the person constructing the adapter, e.g. depending on personal preferences, depending on the size of the articles to be hung from the adapted, for aesthetic reasons, etc.

### ***Response to Arguments***

Applicant's arguments concerning the references of Vollmer and Ferenzi filed July 31, 2006 have been fully considered but they are not persuasive.

Addressing the arguments concerning Vollmer: as stated above, the examiner contends that Vollmer does teach the limitations in the claims directed to the second and fourth walls and their relationships with the first wall. Namely, the second wall depends from an edge portion of the first longitudinally extending end of the first wall and the fourth wall depends from an edge portion of the second longitudinally extending end of the first wall. Note: there is nothing in the claims stating that the second/fourth walls depend from and along the entire first/second ends of the first wall or that they can not themselves be perpendicular to the longitudinal axis of the first wall. The examiner takes the broadest reasonable interpretation of the limitations in the claims and therefore, it has been determined that the reference of Vollmer can still be applied.

As for the depressions of the openings, since the associated wall and its relationship with the adapter was not positively claimed in claim 1, for claim 10 this limitation is abstract at best and inherently able to be met by Vollmer. For example, the



depressions of Vollmer would inherently be depressed toward an associated opposing wall of the room in which it is hung.

As for the location of the holes, as stated above, it would have been an obvious design consideration to modify the adapter by moving the holes so that they are more centered on the first wall, depending on the desired need of the person constructing the adapter, e.g. depending on personal preferences, depending on the size of the articles to be hung from the adapter, for aesthetic reasons, etc.

As for the method claims (which add in Ferenzi), since Vollmer in view of Ferenzi teaches all of the structural limitations claimed, the method steps are inherently met. As for the "pegboard" argument, it should be understood that this term is simply nomenclature, the structure of Vollmer reading on the "peg board adapter" structure claimed.

Finally, it is agreed that Vollmer does not teach notches which receive lances. However, Vollmer's structure as modified by Ferenzi does meet these limitations. See 103 rejection above.

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within

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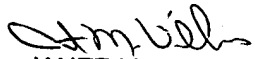
TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Janet M. Wilkens whose telephone number is (571) 272-6869. The examiner can normally be reached on Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lanna Mai can be reached on (571) 272-6867. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Wilkens  
October 13, 2006

  
JANET M. WILKENS  
PRIMARY EXAMINER  
A-U 3637

Attachment A

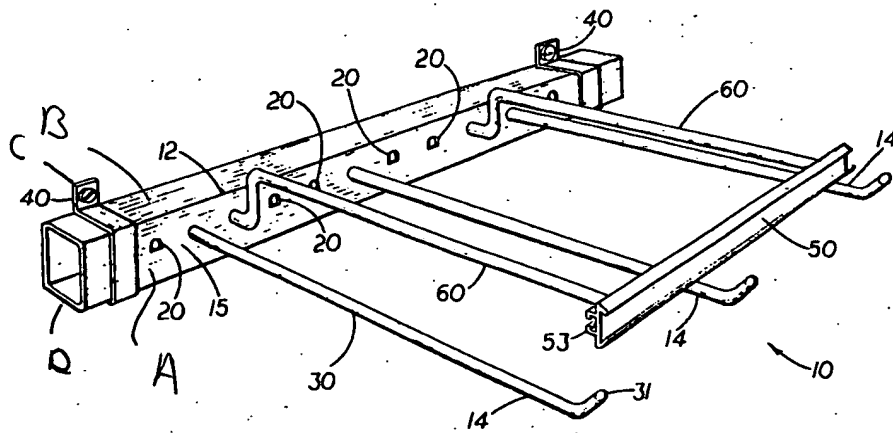


FIG. 1

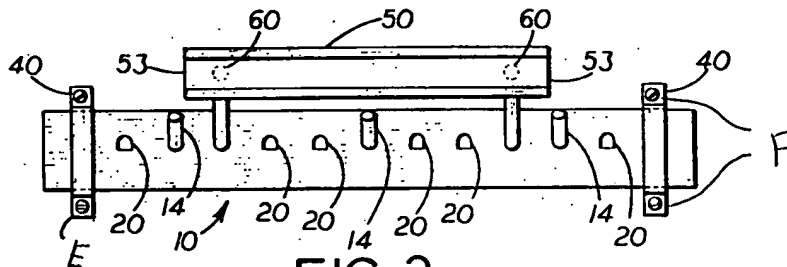


FIG. 2

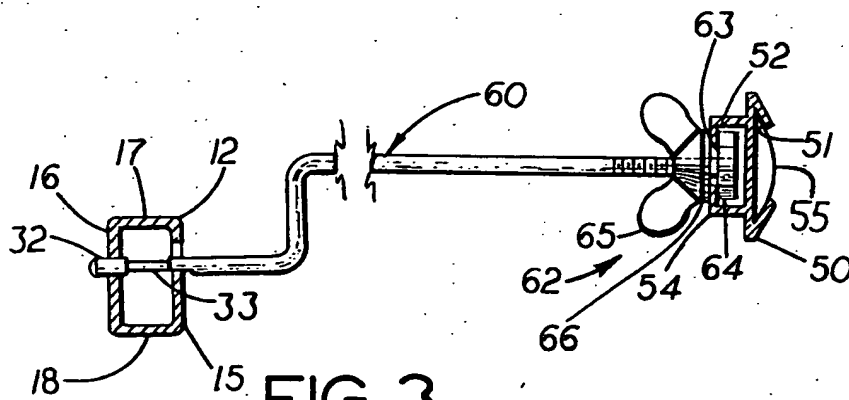


FIG. 3